

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE REFCO INC. SECURITIES LITIGATION

CASE NO. 07-MD-1902 (JSR)

This document relates to:

KENNETH M. KRYS, *ET AL.*,

Plaintiffs,

-against-

CHRISTOPHER SUGRUE, *ET AL.*

CASE NO. 08-CV-3086 (JSR)

Defendants.

**DECLARATION OF JEREMY S. WINER IN SUPPORT OF THE
BANK DEFENDANTS' RESPONSE TO PLAINTIFFS' LIMITED OBJECTION TO
THE REPORT AND RECOMMENDATION OF THE SPECIAL MASTER ON
MOTIONS TO DISMISS BROUGHT BY THE BANK DEFENDANTS**

I, Jeremy S. Winer, hereby declare under penalty of perjury as follows:

1. I am an attorney at the law firm of Wilmer Cutler Pickering Hale and Dorr LLP, counsel for defendants Merrill Lynch, Pierce, Fenner & Smith Incorporated, as successor by merger to Banc of America Securities LLC, Credit Suisse Securities (USA) LLC, and JPMorgan Chase & Co. (collectively, the “Bank Defendants”) in the above-captioned action. I respectfully submit this declaration in further support of the Bank Defendants’ response to the Plaintiffs’ objection to the Special Master’s December 8, 2011 Report and Recommendation.

2. Attached as Exhibit A is a true and correct copy of the Reply Brief for Intervenor-Appellants Kenneth M. Krys and Christopher Stride as Joint Official Liquidators of SPhinX Managed Futures Fund SPC, et. al, filed in the action captioned *In re Refco Inc.*, No. 06-5786 (2d Cir. Apr. 16, 2007);

3. Attached hereto as Exhibit B is a true and correct copy of the Declaration of Marc S. Kirschner in Support of Motion for Order Approving Settlement Agreement Between Refco Capital Markets, Ltd. and JPMorgan Chase Bank, N.A. in *In re Refco Inc.*, No. 05-60006 (Bankr. S.D.N.Y. Nov. 21, 2006);

4. Attached hereto as Exhibit C is a true and correct copy of the Order Approving Settlement Agreement Between Refco Capital Markets, Ltd. and JPMorgan Chase Bank, N.A. in *In re Refco Inc.*, No. 05-60006 (Bankr. S.D.N.Y. Dec. 12, 2006);

I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
January 5, 2012

WILMER CUTLER PICKERING
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(USA) LLC, and JPMorgan Chase & Co.*